

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLIE JOE CHAPMAN,)	4:13CV3205
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
ELLEN POLAND, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s “Motion for the Correction of the Memorandum and Order.” (Filing No. [17](#).) Plaintiff states in his Motion that he is unable to pay the initial partial filing fee in this matter because the prison “tak[es] all of [his] earned money.” (*Id.*)

Under the Prison Litigation Reform Act, an indigent inmate who files a lawsuit in federal court must pay the \$350.00 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments. The method for collecting the filing fee from a prisoner is specifically provided for in [28 U.S.C. § 1915\(b\)](#). Section 1915(b) is written in mandatory terms (“shall”), leaving no discretion to the district court to waive an in forma pauperis prisoner’s filing fee. Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff’s average monthly deposits or average monthly account balance for the six months preceding the filing of the complaint.

Here, Plaintiff’s trust account statement reflects that the average monthly deposits to his inmate trust account is \$33.46. (Filing No. [12](#).) Accordingly, Plaintiff must pay an initial partial filing fee in the amount of \$6.70, which is 20 percent of \$33.46. As set forth in the court’s Memorandum and Order dated June 9, 2014, Plaintiff must pay this initial partial filing fee by July 10, 2014.

IT IS THEREFORE ORDERED that:

1. Plaintiff's "Motion for Correction of the Memorandum and Order" (Filing No. [17](#)) is denied.

2. Plaintiff shall pay an initial partial filing fee in the amount of \$6.70 by July 10, 2014, unless an extension of time is granted in response to a written motion. Failure to pay the initial partial filing fee by the court's deadline will result in dismissal of this action without further notice to Plaintiff.

3. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff's institution.

4. Plaintiff's "Motion for Leave, Motion to Enter Grievance Procedures" is denied without prejudice to reassertion. (Filing No. [16](#).) This matter will not proceed until Plaintiff pays the initial partial filing fee.

DATED this 25th day of June, 2014.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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